

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

FERNANDO ANTONIO MORENO,

No. 2:23-cv-0117 DB P

Petitioner,

v.

DAVID BREWER,

ORDER AND FINDINGS AND
RECOMMENDATIONS

Respondent.

Petitioner proceeds pro se and seeks relief under 28 U.S.C. § 2241. By order filed on June 2, 2023, the court ordered petitioner to show cause why the petition should not be dismissed as moot. Petitioner has not responded to the court's order.

In addition, the court's order filed on June 2, 2023, was served on petitioner's address of record and returned by the postal service. It appears that petitioner has failed to comply with Local Rule 182(f), which requires that a party appearing in propria persona inform the court of any address change. More than sixty-three days have passed since the court order was returned by the postal service and petitioner has failed to notify the court of a current address.

Petitioner's failure to comply with court rules and failure to respond to court orders warrants dismissal for petitioner's failure to prosecute. See Federal Rule of Civil Procedure 41(b); Local Rule 110. Although public policy favors disposition of cases on their merits, other factors outweigh that consideration and favor dismissal in this instance. See *Ferdik v. Bonzelet*, 963 F.2d

1 1258, 1260 (9th Cir. 1992), as amended (May 22, 1992). Specifically, the public's interest in
2 expeditious resolution of litigation, the court's need to manage its docket, and the unavailability
3 of less drastic alternatives weigh in favor of dismissal for petitioner's failure to prosecute.

4 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the Court is
5 directed to assign a district judge to this case.

6 In addition, IT IS HEREBY RECOMMENDED that this action be dismissed without
7 prejudice for failure to prosecute. See Local Rule 183(b).

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
10 after being served with these findings and recommendations, any party may file written
11 objections with the court. The document should be captioned "Objections to Magistrate Judge's
12 Findings and Recommendations." Any response to the objections shall be filed and served within
13 fourteen days after service of the objections. The parties are advised that failure to file objections
14 within the specified time may waive the right to appeal the District Court's order. Martinez v.
15 Ylst, 951 F.2d 1153 (9th Cir. 1991).

16 Dated: August 28, 2023



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18 DEBORAH BARNES
19 UNITED STATES MAGISTRATE JUDGE
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